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CHADBOURNE & PARKE LLP  
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NEW YORK, NY 10112

EXAMINER
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BURKE, JEFF A

ART UNIT	PAPER NUMBER
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2159

MAIL DATE	DELIVERY MODE
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06/25/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/507,509	<b>Applicant(s)</b> WALKER ET AL.	
	<b>Examiner</b> JEFFREY A. BURKE	<b>Art Unit</b> 2159	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 May 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 98-108, 110, 111 and 138-151 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 98-108, 110, 111 and 138-151 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Response to Amendment*

1. This action is in response to applicant's arguments and amendments filed MAY 12, 2009, which are in response to USPTO Office Action mailed November 12, 2008. Applicant's arguments and amendments have been considered with the results that follow: **THIS ACTION IS MADE FINAL.**

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 98, 100-102, 104, 107, 108, 148 and 150-151 are rejected under 35 U.S.C. 102(e) as being anticipated by Fisher et al. (US Patent No. 5,835,896, filed March 29, 1996, hereinafter "Fisher") in view of Barzilai et al. (US Patent No. 6,012,045, filed July 1, 1997, hereinafter "Barzilai").

4. With respect to claim 98, Fisher discloses a system, comprising:

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a server providing a web page accessible by customers (col. 6, lines 5-8, *an electronic auction system to allow a group of bidders to interactively place bids over a computer network, i.e. the internet*);

a storage device storing a program (col. 6, lines 5-8, *an electronic auction system to allow a group of bidders to interactively place bids over a computer network, i.e. the internet*);

a processor in communication with said storage device (*inherent to the functionality of a computer is a processor*), said processor operative with said program to:

receive a conditional purchase offer including an offer unit price from a customer utilizing said web page for purchasing goods or services (col. 6, lines 34-38, *Upon accessing a public network and seeing an item's catalog page, the bidder may press a button on the catalog page or take some similar action which causes a bid form to be displayed on the screen. The bidder then enters the information necessary to place a bid, such as their name and address, bid amount, payment information, etc., and then presses a bid submission button, or takes a similar action which sends the bid to the system.*);

receive a payment identifier specifying a financial account for use in providing guaranteed payment for said goods or services if said conditional purchase offer is accepted (col. 6, line 36, *receiving payment information*);

compare said conditional purchase offer with seller inventory and pricing information to determine if said conditional purchase offer is acceptable (col. 7, lines 21-23, *the bid is*

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*place for a certain item, once the auction is closed the system notifies the winning bidder);*

if said conditional purchase offer is unacceptable, transmit a rejection of said conditional purchase offer to the customer (col. 7, lines 21-23, *notifying the losing bidding that their offer was not accepted*); and

Fisher does not explicitly disclose take an action to deter the customer from submitting multiple conditional purchase offers for said goods or services, wherein said action includes restricting additional conditional purchase offers containing a progressively increasing unit price. Barzilai discloses take an action to deter the customer from submitting multiple conditional purchase offers for said goods or services, wherein said action includes restricting additional conditional purchase offers containing a progressively increasing unit price (col. 14, lines 10-21, *disclosing that the bidding system will reject bids greater than the lowest high bid from a single bidder, i.e. bidder 1 bids 32 and 38 dollars, the 32 dollar bid is accepted and the 38 dollar bid is rejected because it was higher than the lowest high bid made by member #1*).

Fisher and Barzilai are analogous art because they are in the same field of endeavor, online bidding. It would have been obvious to one of ordinary skill in the art, at the time of the invention to modify the system of Fisher to allow the functionality of Barzilai, to allow incremental bids to be disallowed. The suggestion/motivation to combine is to prevent a bidder from inadvertently bidding against themselves.

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5. With respect to claim 100, Fisher discloses the system of claim 98, wherein said seller inventory and pricing information includes seller-defined rules (col. 6, lines 28-30, *bid increments and quantity available*).

6. With respect to claim 101, Fisher discloses the system of claim 98, wherein the customer accesses said web page using a web browser (col. 6, lines 2—25, *WWW catalogue for user viewing and bidding*).

7. With respect to claim 102, Fisher discloses the system of claim 98, wherein the customer accesses said web page which displays an electronic form containing a number of blanks to be filled out by the customer, the blanks representing conditions of the conditional purchase offer (Figure 3).

8. With respect to claim 104, Fisher discloses the system of claim 98, wherein said financial account is a credit account (Figure 3, *entering the credit card number*).

9. With respect to claim 107, Fisher discloses the system of claim 98, wherein said processor is further operative with said program to authenticate said conditional purchase offer prior to consideration thereof (col. 7, lines 54-57, *the bid validator*).

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10. With respect to claim 108, Fisher discloses the system of claim 107, wherein authentication of said conditional purchase offer includes acceptance of a customer credit card number (Figure 3, *entering the credit card information*).

11. With respect to claim 148, Fisher discloses a system, comprising:

a server providing a web page accessible by customers (col. 6, lines 5-8, *an electronic auction system to allow a group of bidders to interactively place bids over a computer network, i.e. the internet*);

a storage device storing a program (col. 6, lines 5-8, *an electronic auction system to allow a group of bidders to interactively place bids over a computer network, i.e. the internet*);

a processor in communication with said storage device (*inherent to the functionality of a computer is a processor*), said processor operative with said program to:

receive a conditional purchase offer including a customer defined offer unit price from a customer utilizing said web page for purchasing goods or services (*all customer bids, are customer defined offer unit prices, see also, col. 10 and col. 11 dutch auction and progressive auction where the customer sets a per unit price*);

receive a payment identifier specifying a financial account for use in providing guaranteed payment for said goods or services if said conditional purchase offer is accepted (col. 6, line 36, *receiving payment information*);

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compare said conditional purchase offer with seller inventory and pricing information to determine if said conditional purchase offer is acceptable (col. 7, lines 21-23, *the bid is place for a certain item, once the auction is closed the system notifies the winning bidder*);

if said conditional purchase offer is unacceptable, transmit a rejection of said conditional purchase offer to the customer (col. 7, lines 21-23, *notifying the losing bidding that their offer was not accepted*); and

Fisher does not explicitly disclose take an action to deter the customer from submitting multiple conditional purchase offers for said goods or services, wherein said action includes restricting additional conditional purchase offers containing a progressively increasing unit price based on an unacceptable conditional purchase offer. Barzilai discloses take an action to deter the customer from submitting multiple conditional purchase offers for said goods or services, wherein said action includes restricting additional conditional purchase offers containing a progressively increasing unit price based on an unacceptable conditional purchase offer (col. 14, lines 10-21, *disclosing that the bidding system will reject bids greater than the lowest high bid from a single bidder, i.e. bidder 1 bids 32 and 38 dollars, the 32 dollar bid is accepted and the 38 dollar bid is rejected because it was higher than the lowest high bid made by member #1, obviously the 38 dollar bid was determined to be unacceptable*).

Fisher and Barzilai are analogous art because they are in the same field of endeavor, online bidding. It would have been obvious to one of ordinary skill in the art, at the time of the invention to modify the system of Fisher to allow the functionality of



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Barzilai, to allow incremental bids to be disallowed. The suggestion/motivation to combine is to prevent a bidder from inadvertently bidding against themselves.

12. With respect to claim 150, Fisher discloses a system, comprising:

a server providing a web page accessible by customers (col. 6, lines 5-8, *an electronic auction system to allow a group of bidders to interactively place bids over a computer network, i.e. the internet*);

a storage device storing a program (col. 6, lines 5-8, *an electronic auction system to allow a group of bidders to interactively place bids over a computer network, i.e. the internet*);

a processor in communication with said storage device (*inherent to the functionality of a computer is a processor*), said processor operative with said program to:

receive a first conditional purchase offer including an offer unit price from a customer utilizing said web page for purchasing goods or services (col. 6, lines 34-38, *Upon accessing a public network and seeing an item's catalog page, the bidder may press a button on the catalog page or take some similar action which causes a bid form to be displayed on the screen. The bidder then enters the information necessary to place a bid, such as their name and address, bid amount, payment information, etc., and then presses a bid submission button, or takes a similar action which sends the bid to the system. Note that multiple purchase offers may be submitted*);

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receive a payment identifier specifying a financial account for use in providing guaranteed payment for said goods or services if said conditional purchase offer is accepted (col. 6, line 36, *receiving payment information*);

compare said conditional purchase offer with seller inventory and pricing information to determine if said conditional purchase offer is acceptable (col. 7, lines 21-23, *the bid is place for a certain item, once the auction is closed the system notifies the winning bidder*);

if said conditional purchase offer is unacceptable, transmit a rejection of said conditional purchase offer to the customer (col. 7, lines 21-23, *notifying the losing bidding that their offer was not accepted*); and

take an action to deter the customer from submitting multiple incremental conditional purchase offers for said goods or services to prevent the customer from identifying a seller's selling price for accepting the conditional purchase offer (col. 10, lines 62 through col. 11, lines 10, *by using the Dutch auctioning system the seller will be able to allow the user to submit a bid for a product and sell different quantities at different prices based on the best bid for the quantity offered. Thereby allowing the selling to prevent the buyer from identifying a selling price.*)

13. With respect to claim 151, Fisher discloses a system, comprising:  
a server providing a web page accessible by customers (col. 6, lines 5-8, *an electronic auction system to allow a group of bidders to interactively place bids over a computer network, i.e. the internet*);

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a storage device storing a program (col. 6, lines 5-8, *an electronic auction system to allow a group of bidders to interactively place bids over a computer network, i.e. the internet*);

a processor in communication with said storage device (*inherent to the functionality of a computer is a processor*), said processor operative with said program to:

receive a conditional purchase offer including at least one customer-defined purchase condition (col. 11, lines 1-10, *a quantity of a units may be specified see also figure 3*) and a customer-defined offer unit price from a customer utilizing said web page for purchasing goods or services (col. 6, lines 34-38, *Upon accessing a public network and seeing an item's catalog page, the bidder may press a button on the catalog page or take some similar action which causes a bid form to be displayed on the screen. The bidder then enters the information necessary to place a bid, such as their name and address, bid amount, payment information, etc., and then presses a bid submission button, or takes a similar action which sends the bid to the system. Note that multiple purchase offers may be submitted*);

receive a payment identifier specifying a financial account for use in providing guaranteed payment for said goods or services if said conditional purchase offer is accepted (col. 6, line 36, *receiving payment information*);

compare said customer-defined purchase condition and customer-defined offer unit price with seller inventory and pricing information to determine if the conditional purchase offer is acceptable (col. 7, lines 21-23, *the bid is place for a certain item, once*

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*the auction is closed the system notifies the winning bidder, see also figure 3, allowing user to specify if they will or will not accept a lower quantity);*

if said conditional purchase offer is unacceptable,

(i) transmit a rejection of said conditional purchase offer to the customer (col. 7, lines 21-23, *notifying the losing bidding that their offer was not accepted*).

Fisher does not explicitly disclose take an action to deter the same customer from submitting multiple conditional purchase offers for said goods or services, wherein said action includes limiting additional conditional purchase offers containing a progressively increasing unit price. Barzilai discloses take an action to deter the same customer from submitting multiple conditional purchase offers for said goods or services, wherein said action includes limiting additional conditional purchase offers containing a progressively increasing unit price (col. 14, lines 10-21, *disclosing that the bidding system will reject bids greater than the lowest high bid from a single bidder, i.e. bidder 1 bids 32 and 38 dollars, the 32 dollar bid is accepted and the 38 dollar bid is rejected because it was higher than the lowest high bid made by member #1*).

Fisher and Barzilai are analogous art because they are in the same field of endeavor, online bidding. It would have been obvious to one of ordinary skill in the art, at the time of the invention to modify the system of Fisher to allow the functionality of Barzilai, to allow incremental bids to be disallowed. The suggestion/motivation to combine is to prevent a bidder from inadvertently bidding against themselves.

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14. Claims 138-141 and 143-145 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fisher, as applied to claim 98, in view of Barzilai, and in further view Huberman (US Patent No. 5,826,244, filed August 23, 1995, hereinafter "Huberman").

15. With respect to claim 138, Fisher discloses a system, comprising:

a server providing a web page accessible by customers (col. 6, lines 5-8, *an electronic auction system to allow a group of bidders to interactively place bids over a computer network, i.e. the internet*);

a storage device storing a program (col. 6, lines 5-8, *an electronic auction system to allow a group of bidders to interactively place bids over a computer network, i.e. the internet*);

a processor in communication with said storage device (*inherent to the functionality of a computer is a processor*), said processor operative with said program to:

receive a first conditional purchase offer including an offer unit price from a customer utilizing said web page for purchasing goods or services (col. 6, lines 34-38, *Upon accessing a public network and seeing an item's catalog page, the bidder may press a button on the catalog page or take some similar action which causes a bid form to be displayed on the screen. The bidder then enters the information necessary to place a bid, such as their name and address, bid amount, payment information, etc., and then presses a bid submission button, or takes a similar action which sends the bid to the system. Note that multiple purchase offers may be submitted*);

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receive a payment identifier specifying a financial account for use in providing guaranteed payment for said goods or services if said first conditional purchase offer is accepted (col. 6, line 36, *receiving payment information*);

compare said first conditional purchase offer with seller inventory and pricing information to determine if said first conditional purchase offer is acceptable (col. 7, lines 21-23, *the bid is place for a certain item, once the auction is closed the system notifies the winning bidder. Note that if a higher bid is received then the purchase offer is no longer acceptable and an e-mail is sent out to bidder's requesting a new bid*);

if said first conditional purchase offer is unacceptable, transmit a rejection of said first conditional purchase offer to the customer (col. 7, lines 21-23, *the bid is place for a certain item, once the auction is closed the system notifies the winning bidder. Note that if a higher bid is received then the purchase offer is no longer acceptable and an e-mail is sent out to bidder's requesting a new bid*); and

Fisher does not explicitly disclose take an action to deter the customer from submitting a second conditional purchase offer with an increased offer unit price for said goods or services within a predetermined period of time after transmitting a rejection of said first conditional purchase offer, wherein said action includes limiting additional conditional purchase offers containing a progressively increasing unit price. Barzilai discloses take an action to deter the customer from submitting multiple conditional purchase offers for said goods or services, wherein said action includes restricting additional conditional purchase offers containing a progressively increasing unit price (col. 14, lines 10-21, *disclosing that the bidding system will reject bids greater than the*

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*lowest high bid from a single bidder, i.e. bidder 1 bids 32 and 38 dollars, the 32 dollar bid is accepted and the 38 dollar bid is rejected because it was higher than the lowest high bid made by member #1).*

Fisher and Barzilai are analogous art because they are in the same field of endeavor, online bidding. It would have been obvious to one of ordinary skill in the art, at the time of the invention to modify the system of Fisher to allow the functionality of Barzilai, to allow incremental bids to be disallowed. The suggestion/motivation to combine is to prevent a bidder from inadvertently bidding against themselves.

The combination of Barzilai and Fisher does not explicitly disclose submitting a second conditional purchase offer with an increased offer unit price for said goods or services within a predetermined period of time after transmitting a rejection of said first conditional purchase offer. Huberman discloses submitting a second conditional purchase offer with an increased offer unit price for said goods or services within a predetermined period of time after transmitting a rejection of said first conditional purchase offer (col. 11, lines 20-25, *disclosing an elapsed time interval for bidding*).

Fisher, Barzilai and Huberman are analogous art because they are in the same field of endeavor, online bidding. It would have been obvious to one of ordinary skill in the art, at the time of the invention to modify the system of Fisher and Barzilai to allow the functionality of Huberman, to disallow bidding within a time interval. The suggestion/motivation to combine is to prevent a bidder from inadvertently bidding against themselves.

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16. With respect to claim 139, the combination of Fisher, Barzilai and Huberman disclose the system of claim 138, wherein said seller inventory and pricing information includes seller-defined rules (Fisher, col. 6, lines 28-30, *bid increments and quantity available*).

17. With respect to claim 140, the combination of Fisher, Barzilai and Huberman disclose the system of claim 138, wherein the customer accesses said web page using a web browser (Fisher, col. 6, lines 2—25, *WWW catalogue for user viewing and bidding*).

18. With respect to claim 141, the combination of Fisher, Barzilai and Huberman disclose the system of claim 138, wherein the customer accesses said web page which displays an electronic form containing a number of blanks to be filled out by the customer, the blanks representing conditions of the conditional purchase offer (Fisher, Figure 3).

19. With respect to claim 143, the combination of Fisher, Barzilai and Huberman disclose the system of claim 138, wherein said financial account is a credit account (Fisher, Figure 3, *entering the credit card number*).

20. With respect to claim 144, the combination of Fisher, Barzilai and Huberman disclose the system of claim 138, wherein said payment for said goods or services is



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guaranteed (Fisher, *See figure 3, credit card is needed to guarantee your bid, and will not be charged unless the bid is successful. Therefore a successful bid results in the guarantee of payment*).

21. With respect to claim 145, the combination of Fisher, Barzilai and Huberman disclose the system of claim 138, wherein said processor is further configured to authenticate said first conditional purchase offer prior to consideration thereof (Fisher, col. 7, lines 50-65, *the bid validator authenticates the bid prior to entry into the database for consideration*).

22. Claims 103 and 105 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fisher, as applied to claim 98, in view of Barzilai, and in further view Godin (US Patent No. 5,890,138, granted March 30, 1999, hereinafter "Godin").

23. With respect to claim 103, the combination of Fisher and Barzilai disclose the system of claim 98, Fisher does not explicitly disclose wherein said financial account is a debit account. Godin discloses wherein said financial account is a debit account (col. 4, line 4, *debit card*).

Fisher, Barzilai and Godin are analogous art because they are in the same field of endeavor, auctioning systems. It would have been obvious to one of ordinary skill in the art, at the time of the invention, to modify the system of Fisher and Barzilai to include the functionality of Godin, in order to authorize payment for goods or services

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using a debit card. The suggestion/motivation to combine is to allow for multiple methods of payment for goods and services.

24. With respect to claim 105, the combination of Fisher and Barzilai disclose the system of claim 98. The combination does not explicitly disclose wherein said processor is further operative with said program to pre-authorize said offer unit price of said conditional purchase offer with a financial clearinghouse. Godin discloses wherein said processor is further operative with said program to pre-authorize said offer unit price of said conditional purchase offer with a financial clearinghouse (col. 3, lines 61 through col. 4, lines 10, *allowing the financial institution to real-time authorize the purchase price*).

Fisher, Barzilai and Godin are analogous art because they are in the same field of endeavor, auctioning systems. It would have been obvious to one of ordinary skill in the art, at the time of the invention, to modify the system of Fisher and Barzilai to include the functionality of Godin, in order to authorize pre-payment for goods or services. The suggestion/motivation to combine is to allow a seller to ensure payment for the goods or services rendered.

25. Claims 106 and 111 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fisher, in view of Barzilai and in further view of Cathay (Cathay Pacific Airways auctions, published April 29, 1996, hereinafter "Cathay").

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26. With respect to claim 106, the combination of Fisher and Barzilai disclose the system of claim 98. The combination does not explicitly disclose wherein said goods or services include at least one of an airline ticket, an automobile, insurance, computer equipment and a hotel accommodation. Cathay discloses an online system for auctioning airline tickets (para. 1-2, *travel-related products*). It would have been obvious to one of ordinary skill in the art, at the time of the invention to modify the systems of Fisher and Barzilai to allow airline tickets to be auctioned off. The suggestion/motivation to combine is that the system is already auctioning products, and airline tickets have been well known products in the market for at least 40 years.

27. With respect to claim 111, the combination of Fisher and Barzilai disclose the system of claim 98. The combination does not explicitly disclose wherein said processor is operative with said program to compare said conditional purchase offer with seller inventory and pricing information by accessing information in at least one of: a computer reservation system and an airline reservation system. Fisher discloses checking the inventory of items during the bid process, and Cathay discloses an online system for auctioning airline tickets (para. 1-2, *travel-related products*). It would have been obvious to one of ordinary skill in the art, at the time of the invention to modify the systems of Fisher and Barzilai to allow ticket inventories to be checked. The suggestion/motivation to combine is that the system is already checking inventory, and airline tickets have been well known products in the market for at least 40 years.

28. Claim 149 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fisher, in view of Barzilai, in view of Godin, and in further view of Cathay (Cathay Pacific Airways auctions ..., published April 29, 1996, hereinafter "Cathay").

29. With respect to claim 149, Fisher discloses a system, comprising:  
a server providing a web page accessible by customers (col. 6, lines 5-8, *an electronic auction system to allow a group of bidders to interactively place bids over a computer network, i.e. the internet*);

a storage device storing a program (col. 6, lines 5-8, *an electronic auction system to allow a group of bidders to interactively place bids over a computer network, i.e. the internet*);

a processor in communication with said storage device (*inherent to the functionality of a computer is a processor*), said processor  
operative with said program to:

receive a conditional purchase offer including an customer-defined offer unit price (col. 6, lines 34-38, *Upon accessing a public network and seeing an item's catalog page, the bidder may press a button on the catalog page or take some similar action which causes a bid form to be displayed on the screen. The bidder then enters the information necessary to place a bid, such as their name and address, bid amount, payment information, etc., and then presses a bid submission button, or takes a similar action which sends the bid to the system. Note that multiple purchase offers may be*

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*submitted*), from a customer utilizing said web page for purchasing travel-related products;

receive a payment identifier specifying a financial account for use in providing guaranteed payment for said goods or services if said conditional purchase offer is accepted (col. 6, line 36, *receiving payment information*);

compare said conditional purchase offer with seller inventory and pricing information to determine if said conditional purchase offer is acceptable (col. 7, lines 21-23, *the bid is place for a certain item, once the auction is closed the system notifies the winning bidder*);

if said conditional purchase offer is unacceptable, transmit a rejection of said conditional purchase offer to the customer (col. 7, lines 21-23, *notifying the losing bidding that their offer was not accepted*); and

Fisher does not explicitly disclose take an action to deter the customer from submitting multiple conditional purchase offers for said goods or services, wherein said action includes restricting additional conditional purchase offers containing a progressively increasing unit price. Barzilai discloses take an action to deter the customer from submitting multiple conditional purchase offers for said goods or services, wherein said action includes restricting additional conditional purchase offers containing a progressively increasing unit price (col. 14, lines 10-21, *disclosing that the bidding system will reject bids greater than the lowest high bid from a single bidder, i.e. bidder 1 bids 32 and 38 dollars, the 32 dollar bid is accepted and the 38 dollar bid is rejected because it was higher than the lowest high bid made by member #1*).

Fisher and Barzilai are analogous art because they are in the same field of endeavor, online bidding. It would have been obvious to one of ordinary skill in the art, at the time of the invention to modify the system of Fisher to allow the functionality of Barzilai, to allow incremental bids to be disallowed. The suggestion/motivation to combine is to prevent a bidder from inadvertently bidding against themselves.

The combination does not explicitly disclose if said conditional purchase offer is acceptable, transmit a purchase indicator to a third party for payment pre-authorization; or from a customer utilizing said web page for purchasing travel-related products. Godin discloses if said conditional purchase offer is acceptable, transmit a purchase indicator to a third party for payment pre-authorization (col. 7, lines 22-25, *financial information is transmitted to the financial institution for immediate authorization. Note also Godin allows for the storage of financial information, or pre-registering*).

Fisher, Barzilai and Godin are analogous art because they are in the same field of endeavor, auctioning systems. It would have been obvious to one of ordinary skill in the art, at the time of the invention, to modify the system of Fisher to include the functionality of Godin, in order to authorize payment for goods or services. The suggestion/motivation to combine is to allow security and ensure payment for goods or services rendered.

The combination of Fisher, Barzilai and Godin does not disclose from a customer utilizing said web page for purchasing travel-related products. Cathay discloses an online system for auctioning airline tickets (para. 1-2, *travel-related products*). It would have been obvious to one of ordinary skill in the art, at the time of the invention to

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modify the systems of Fisher and Godin to allow airline tickets to be auctioned off. The suggestion/motivation to combine is that the system is already auctioning products, and airline tickets have been well known products in the market for at least 40 years.

30. Claims 99 and 110 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fisher, as applied to claim 98, in view of Barzilai, and in further view of Spallone (US Patent No. 4,959,686, granted September 1990, herein "Spallone").

31. With respect to claim 99, the combination of Fisher and Barzilai disclose the system of claim 98, the combination does not explicitly disclose wherein said conditional purchase offer includes an expiration date. Spallone discloses wherein said conditional purchase offer includes an expiration date (col. 5, line 65 through col. 6 line 3, *the expiration time is a period of 30 seconds without entering a command, at which point the offer is abandoned*).

Fisher, Barzilai and Spallone are analogous art because they are in the same field of endeavor, online buying systems. It would have been obvious to one of ordinary skill in the art, at the time of the invention to modify the system of Fisher and Barzilai to include the functionality of Spallone, to allow an expiration of an offer. The suggestion/motivation to combine is to limit the period of time the offer is available.

32. With respect to claim 110, the combination of Fisher and Barzilai discloses the system of claim 98. The combination does not explicitly disclose wherein said action

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includes limiting additional conditional purchase offers that a customer can submit within a predefined period of time. Spallone discloses wherein said action includes limiting additional conditional purchase offers that a customer can submit within a predefined period of time (col. 5, line 65 through col. 6 line 3, *the customer is limited from submitting the offer if a period of 30 seconds has elapsed without entering data during the offer process*).

Fisher, Barzilai and Spallone are analogous art because they are in the same field of endeavor, online buying systems. It would have been obvious to one of ordinary skill in the art, at the time of the invention to modify the system of Fisher to include the functionality of Spallone, to allow a limitation on offer numbers. The suggestion/motivation to combine is to limit the users from repeatedly increasing the offer in rapid succession.

33. Claim 142 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fisher, as applied to claim 98, in view of Barzilai, in view of Huberman and in further view of Godin.

34. With respect to claim 142, the combination of Fisher, Barzilai and Huberman disclose the system of claim 138. The combination does not explicitly disclose wherein said financial account is a debit account. Godin discloses wherein said financial account is a debit account (col. 4, line 4, *debit card*).



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Fisher, Barzilai, Huberman and Godin are analogous art because they are in the same field of endeavor, auctioning systems. It would have been obvious to one of ordinary skill in the art, at the time of the invention, to modify the system to include the functionality of Godin, in order to authorize payment for goods or services using a debit card. The suggestion/motivation to combine is to allow for multiple methods of payment for goods and services.

35. Claims 146 and 147 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fisher, in view of Barzilai, in view of Huberman and in further view of Cathay.

36. With respect to claim 146, Fisher discloses the system of claim 138. Fisher does not explicitly disclose wherein said goods or services includes at least one of an airline ticket, an automobile, insurance, computer equipment and a hotel accommodation.

Cathay discloses an online system for auctioning airline tickets (para. 1-2, *travel-related products*). It would have been obvious to one of ordinary skill in the art, at the time of the invention to modify the systems of Fisher to allow airline tickets to be auctioned off. The suggestion/motivation to combine is that the system is already auctioning products, and airline tickets have been well known products in the market for at least 40 years.

37. With respect to claim 147, Fisher discloses the system of claim 138. Fisher does not explicitly disclose wherein said processor is operative with said program to compare said conditional purchase offer with seller inventory and pricing information by

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accessing information in at least one of: a computer reservation system and an airline reservation system. Fisher discloses checking the inventory of items during the bid process, and Cathay discloses an online system for auctioning airline tickets (para. 1-2, *travel-related products*). It would have been obvious to one of ordinary skill in the art, at the time of the invention to modify the systems of Fisher to allow ticket inventories to be checked. The suggestion/motivation to combine is that the system is already checking inventory, and airline tickets have been well known products in the market for at least 40 years.

### ***Response to Arguments***

38. Applicant's arguments with respect to claims 98-108, 110-111, 138-149 and 151 have been considered but are moot in view of the new ground(s) of rejection.

39. Applicant's arguments filed May 12, 2009, with respect to claim 150 have been fully considered but they are not persuasive. Applicant argues that Fisher fails to teach or disclose " *take an action to deter the customer from submitting multiple incremental conditional purchase offers for said goods or services to prevent the customer from identifying a seller's selling price for accepting the conditional purchase offer*", the examiner respectfully disagrees. Fisher is shown to disclose a system for bidding on products which allows bidders to place as many bids as they wish. Furthermore, Fisher is shown to disclose (col. 10, lines 62 through col. 11, lines 10) *by using the Dutch*

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*auctioning system the seller will be able to allow the user to submit a bid for a product and sell different quantities at different prices based on the best bid for the quantity offered. Thereby allowing the selling to prevent the buyer from identifying a selling price and (col. 7, lines 54-57) the bid validator, col. 8, lines 5-9, closing the auction disables the bids which limits the addition of increasing bid prices.* Therefore, Fisher discloses taking an action, i.e. closing down the auction, and a system for disallowing the user from discovering the selling price, i.e. the dutch auction.

### **Conclusion**

40. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to JEFFREY A. BURKE whose telephone number is (571)270-3844. The examiner can normally be reached on M-R: 7:30 - 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trujillo can be reached on 571-272-3677. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/James Trujillo/  
Supervisory Patent Examiner, Art  
Unit 2159

/Jeff A Burke/  
Examiner, Art Unit 2159